UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,022	11/03/2003	Alberto Jose Raggio Ulate	GRAGG.00001	3415

22858 7590 01/22/2009

CARSTENS & CAHOON, LLP
P O BOX 802334
DALLAS, TX 75380

EXAMINER	
DAILEY, THOMAS J	
ART UNIT	PAPER NUMBER
2452	

MAIL DATE	DELIVERY MODE
01/22/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/700,022	ULATE ET AL.	
	Examiner	Art Unit	
	Thomas J. Dailey	2452	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 November 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-60* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-60* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-60 are pending.

Response to Arguments

2. Applicant's arguments with respect to the 35 U.S.C. 102 rejection of claims 20 and 38 have been considered but are moot in view of the new ground(s) of rejection.

3. Applicant's arguments filed with respect to the 35 U.S.C. 102 rejections of claims 1 and 51 have been fully considered but they are not persuasive.

4. The applicant argues with respect to the 35 U.S.C. 102 rejections of claims 1 and 51 that Hohenacker (WIPO Pub. No. WO/2002/0805519) fails to disclose "an audio player to preview said recorded performance," contending the Hohenacker is very specific that the preview is not only lacking sound, but also has "reduced image quality."

5. The examiner disagrees. Firstly, the limitation "an audio and video player to preview said recorded performance" is an intended use limitation. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of

performing the intended use, then it meets the claim. See, e.g., In re Schreiber, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed.Cir. 1997).

In this particular case, since Hohenacker discloses audio and video players ([0091], discloses a video player; and [0078]-[0079] discloses an audio player) capable of performing the intended use, i.e. previewing the recorded performance, there is not a structural difference between the claimed invention (i.e., the claimed invention's structure is simply the audio and video players), Hohenacker meets the claim.

6. The applicant argues with respect to the 35 U.S.C. 103 rejections of claims 10 and 28 that Hohenacker fails to disclose an enclosed soundproof studio.

7. The examiner notes Hohenacker was not relied upon to disclose a soundproof studio, rather what was well known at the time of the invention was relied upon to teach such a studio. The newly cited Chu et al (US Pat. 6,086,380) has been cited below in the rejection of the claims as evidence of what was well known at the time of the invention.

8. The applicant argues with respect to the 35 U.S.C. 103 rejections of claims 41and 42 that Hohenacker fails to disclose the collection of demographic information and therefore would not be obvious to tie such information to a subscription.

9. The examiner disagrees. Hohenacker discloses collecting demographic information ([0083]) and therefore it would have been obvious to tie such information to a subscription.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-3, 5-6, 8-9, 13, 16, 51-54, 57, and 59-60, are rejected under 35 U.S.C. 102(b) as being anticipated by Hohenacker (WIPO Pub. No. WO/2002/080519 A2), hereafter "Hohenacker."

12. Note that as Hohenacker '519 is the publication of the PCT which US PG Pub. 2005/0100311 (cited in a previous action) claims priority to (see '311 label 86 page 1: "PCT/EP02/01778" and Hohenacker '519, label 21 page 1: "PCT/EP02/01778") the examiner is utilizing US PG Pub. 2005/0100311 as the English translation of Hohenacker '519. Therefore all citations are taken from PG Pub. 2005/0100311. Support for this practice can be found in MPEP 901.05(III) which recites:

> Duplicate or substantially duplicate versions of a foreign language specification, in English or some other language known to the examiner, can sometimes be found. It is possible to cite a foreign language specification as a reference, while at the same time citing an English language version of the specification with a later date as a convenient translation if the latter is in fact a translation. Questions as to content in such cases must be settled based on the specification which was used as the reference.

13. As to claim 1, Hohenacker discloses an interactive personal service provider for video communication having a studio (Abstract) comprising:

an audio and video recorder to record at least one performance thereby making a recorded performance (Fig. 1, label 30 (audio recorder) and label 39 (video recorder) and [0073]-[0074]);

at least one computer server for storing said recorded performance (Fig. 1, label 31 and [0063]) further comprising:

an audio and video player to preview said recorded performance ([0091] and [0078]-[0079]); and

a database to receive input information from a studio user that relates to said recorded performance ([0083]); and

a communication connection to transmit said recorded performance to a studio site maintained by a studio operator ([0040]-[0041], recording centre reads on a studio site) wherein said recorded performance is categorized and wherein said site enable a plurality of viewers to view said recorded performance ([0043]-[0045]).

14. As to claim 51, Hohenacker discloses an apparatus for distributing information to at least one information seeker said apparatus comprising:

at least two studio booths ([0001]) wherein each studio booth is equipped with an audio and video recording device (Fig. 1, label 30 (audio recorder) and label 39 (video recorder) and [0073]-[0074]) and is located in a publicly accessible location ([0005]); and

a studio site connected to each said studio booth wherein a plurality of studio users can access one of the plurality of said studio booths to upload a performance ([0040]-[0041], recording centre reads on a studio site).

15. As to claims 2 and 57, Hohenacker discloses said studio operator can query said database for criteria specified by an information seeker ([0029]-[0030]).

16. As to claim 3, Hohenacker discloses a viewer is restricted from viewing said input information of said studio user on said site ([0093]).

17. As to claim 5, Hohenacker discloses a professional media kit is produced from said input information and said recorded performance ([0046]).

18. As to claim 6, Hohenacker discloses an information seeker can query said input information ([0029]-[0030]).

19. As to claim 8, Hohenacker discloses said recorded performance is reviewed by a personal coach ([0026]).

20. As to claim 9, Hohenacker discloses said recorded performance comprises a Karaoke-style performance performed in said studio ([0079]).

21. As to claims 13 and 53-54, Hohenacker discloses said studio site comprises a website ([0050]).

22. As to claims 16 and 60, Hohenacker discloses a video conferencing capability ([0079]).

23. As to claim 59, Hohenacker discloses said recorded performance comprises at least two studio users in at least two separate locations ([0001]).

24. As to claim 52, it is rejected by the same rationale set forth in claim 1's rejection.

Claim Rejections - 35 USC § 103

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

26. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker, as applied to claim 1, in view of what is well known in the art.

27. As to claim 10, Hohenacker does not disclose said studio is substantially soundproof.

However, it is well known practice to one of ordinary skill in the art to make recording studio's substantially soundproof. Therefore, Official Notice (see MPEP 2144.03) is taken that practice was well known in the art and is implemented to gain the advantage of higher quality audio recordings (i.e. less background noise) by using substantially soundproof recording studios.

The examiner further cites Chu et al (US Pat. 6,086,380) which evidences this assertion (Fig. 1, and column 2, lines 39-48).

28. As to claim 11, Hohenacker does not disclose said audio and video recorder enables said studio user to transmit only one recording from at least two performances recorded by said studio user in said studio.

However, allowing a user to make multiple recordings and uploading only one of those recording to a remote site would have been an obvious modification to

one of ordinary skill in the art given the teachings of Hohenacker. Specifically, it is a common practice in the art to review, and if necessary rerecord poor performances, and only utilize one of the recordings. Therefore, Official Notice (see MPEP 2144.03) is taken that practice was well known in the art and is implemented in order allow the user to make errors and correct those errors.

29. Claims 20-23, 26-27, 30-31, and 34, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker in view of Williams (US Pub. No. 2002/0091455).

30. As to claim 20, Hohenacker discloses a method for placing a performance of a studio user on a studio site, said method comprising the steps of:

a. providing a studio in a public locations ([0005]) wherein said studio comprises an audio and video recording capability (Fig. 1, label 30 (audio recorder) and label 39 (video recorder) and [0073]-[0074]);

b. recording a performance of a studio user in said studio onto a studio server thereby creating a recorded performance ([0063]);

c. categorizing said recorded performance by subject matter in a database ([0079], different types of video recordings can be made and [0093] discloses how different types of recorded materials are handled differently, i.e. they are inherently categorized); and

d. making said recorded performance accessible from a studio site maintained by a studio operator ([0040]-[0041], recording centre reads on a studio site).

But, Hohenacker does not explicitly disclose the studio user categorizes said recorded performance.

However, Williams discloses a user recording content and further the user categorizes said content ([0048], user selects the type of recording and [0051], lines 1-9 discloses the storing of the various files by category or file type in the database, the file type being dependent on selections made by the recording user).

Therefore it would have been obvious at the time of the invention to combine the teachings of Hohenacker and Williams in order to allow user control of the categorization of recorded content and in doing so providing for a more user friendly experience.

31. As to claim 21, Hohenacker discloses said studio operator can query said database for criteria specified by an information seeker ([0029]-[0030]).

32. As to claim 22, Hohenacker discloses information is input by said studio user prior to making said recorded performance accessible at step d ([0030]).

33. As to claim 23, Hohenacker discloses a professional media kit is produced from said input information and said recorded performance ([0046]).

34. As to claim 26, Hohenacker discloses said recorded performance is reviewed by a personal coach ([0026]).

35. As to claims 27, Hohenacker discloses said recorded performance comprises a Karaoke-style performance performed in said studio ([0079]).

36. As to claim 30, Hohenacker discloses said studio user agrees to an exclusive agency contract with a studio operator prior to step b ([0081]).

37. As to claim 31, Hohenacker discloses said studio site comprises a website ([0050]).

38. As to claim 34, Hohenacker discloses said recorded performance comprises at least two studio users in at least two separate locations ([0001]).

39. Claims 38-40, 43-47 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker in view of Chu et al (US Pat. 6,086,380), hereafter "Chu."

40. As to claim 38, Hohenacker discloses a method of recruiting talent comprising:

a. providing an enclosed studio in a public place for at least one studio user to record a performance ([0005]);

b. recording said performance in said studio on a studio server thereby making a recorded performance ([0063]);

c. transmitting said recorded performance to an information seeker ([0040]-[0041]).

But, Hohenacker does not explicitly disclose the studio is both enclosed and in a public place, which provides for a private recorded performance.

However, Chu discloses a recording studio that is both enclosed and in a public place, which provides for a private recorded performance (Fig. 1 and column 2, lines 39-48).

Therefore it would have been obvious at the time of the invention to combine the teachings of Hohenacker and Chu in order to provide for privacy when giving a recorded performance thus improving the overall user experience.

41. As to claim 39, Hohenacker discloses said studio user further provides demographic information ([0030]).

42. As to claim 40, Hohenacker discloses a talent seeker may access said demographic information ([0030]).

43. As to claim 43, Hohenacker discloses said demographic information is transmitted to a talent seeker ([0030]).

44. As to claim 44, Hohenacker discloses a professional media kit is produced from said input information and said recorded performance ([0046]).

45. As to claim 45, Hohenacker discloses said recorded performance is reviewed by a personal coach ([0026]).

46. As to claim 46, Hohenacker discloses said recorded performance comprises a Karaoke-style performance performed in said studio ([0079]).

47. As to claim 47, Hohenacker discloses said recording of step b) is achieved in an interview fashion whereby questions are transmitted through at least one speaker ([0008]).

48. As to claim 49, Hohenacker discloses said information seeker at step c) further views said recorded performance from an internet connection ([0040]).

49. Claims 4, 7, 12, 14-15, 17-19, 55-56, and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker as applied to claims 1 and 51, in view of Chacker (US Pat. 6,578,008).

50. As to claims 4 and 58, Hohenacker does not disclose a viewer purchases said recorded performance from a studio operator.

However, Chacker discloses a view purchasing an uploaded recorded performance from a studio operator (column 6, lines 63-65 and column 12, lines 48-53).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker and Chacker in order for the studio to use the acquired recorded performances to earn a profit.

51. As to claim 7, Hohenacker does not disclose at least one information seeker bids to enter into contract negotiations with said studio user.

However, Chacker discloses an information seeker bids to enter into contract negotiations with an uploading artist (column 7, lines 8-25).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker and Chacker in order recruit talent (Chacker, column 4, lines 23-26).

52. As to claim 12, Hohenacker does not disclose said studio user electronically contracts with said studio operator for an exclusive agency contract for said recorded performance.

However, Chacker discloses an uploading artist electronically contracts with a studio operator for an exclusive agency contract for an uploaded performance (column 7, lines 8-25).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker and Chacker in order to recruit talent (Chacker, column 4, lines 23-26).

53. As to claims 14 and 55, Hohenacker does not disclose a menu on said studio site lists subject matter and pre-determined main categories and sub-categories.

However, Chacker discloses a menu on a studio site lists subject matter and pre-determined main categories and sub-categories (column 10, lines 30-35).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker and Chacker in order to create a user friendly interface by making the recorded performances more accessible.

54. As to claim 15, Hohenacker does not disclose a menu on said studio site allows user created categories and sub-categories.

However, Chacker discloses a menu on a studio site allows user created categories and sub-categories (column 10, lines 30-35).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker and Chacker in order to create a user friendly interface by making the recorded performances more accessible.

55. As to claims 17 and 56, Hohenacker does not disclose said site further comprises a ratings means for enabling a viewer to rate said recorded

performance wherein further said ratings means prohibits said viewer from rating said recorded performance more than once.

However, Chacker discloses a ratings means for enabling a viewer to rate a recorded performance and preventing said viewer from compromising the ratings (column 7, lines 19-25, viewers trade stocks, effectively rating artists; viewers are giving a finite amount of resources to trade with).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker and Chacker in order to allow direct user input which can then translate into popularity and marketing potential of prospective artists.

56. As to claim 18, Hohenacker and Chacker disclose the invention substantially with regard to the parent claim 17, and further disclose an information seeker is electronically notified when ratings from one or more viewers exceeds a pre-determined ratings threshold (Chacker, column 13, lines 23-28).

57. As to claim 19, Hohenacker and Chacker disclose the invention substantially with regard to the parent claim 18, and further disclose a studio operator is electronically notified when ratings from said viewers exceeds a predetermined ratings threshold (Chacker, column 13, lines 23-28).

58. Claims 24-25, 32-33, and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker in view of Williams as applied to claim 20, and in further view of Chacker (US Pat. 6,578,008).

59. As to claim 24 Hohenacker does not disclose a viewer purchases said recorded performance from a studio operator.

However, Chacker discloses a view purchasing an uploaded recorded performance from a studio operator (column 6, lines 63-65 and column 12, lines 48-53).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Williams, and Chacker in order for the studio to use the acquired recorded performances to earn a profit.

60. As to claim 25, Hohenacker does not disclose at least one information seeker bids to enter into contract negotiations with said studio user.

However, Chacker discloses an information seeker bids to enter into contract negotiations with an uploading artist (column 7, lines 8-25).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Williams in order recruit talent (Chacker, column 4, lines 23-26).

61. As to claim 32, Hohenacker does not disclose a menu on said studio site lists subject matter and pre-determined main categories and sub-categories.

However, Chacker discloses a menu on a studio site lists subject matter and pre-determined main categories and sub-categories (column 10, lines 30-35).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Williams and Chacker in order to create a user friendly interface by making the recorded performances more accessible.

62. As to claim 33, Hohenacker does not disclose a menu on said studio site allows user created categories and sub-categories.

However, Chacker discloses a menu on a studio site allows user created categories and sub-categories (column 10, lines 30-35).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Williams and Chacker in order to create a user friendly interface by making the recorded performances more accessible.

63. As to claim 35, Hohenacker does not disclose said site further comprises a ratings means for enabling a viewer to rate said recorded performance wherein further said ratings means prohibits said viewer from rating said recorded performance more than once.

However, Chacker discloses a ratings means for enabling a viewer to rate a recorded performance and preventing said viewer from compromising the ratings (column 7, lines 19-25, viewers trade stocks, effectively rating artists; viewers are giving a finite amount of resources to trade with).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Williams, and Chacker in order to allow direct user input which can then translate into popularity and marketing potential of prospective artists.

64. As to claims 36, Hohenacker, Williams and Chacker disclose the invention substantially with regard to the parent claim, and further disclose an information

seeker is electronically notified when ratings from one or more viewers exceeds a pre-determined ratings threshold (Chacker, column 13, lines 23-28).

65. As to claims 37, Hohenacker, Williams and Chacker disclose the invention substantially with regard to the parent claim, and further disclose a studio operator is electronically notified when ratings from said viewers exceeds a predetermined ratings threshold (Chacker, column 13, lines 23-28).

66. Claims 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker and Williams, as applied to claims 20, in further view of what is well known in the art.

67. As to claim 28, Hohenacker and Williams do not disclose said studio is substantially soundproof.

However, it is well known practice to one of ordinary skill in the art to make recording studio's substantially soundproof. Therefore, Official Notice (see MPEP 2144.03) is taken that practice was well known in the art and is implemented to gain the advantage of higher quality audio recordings (i.e. less background noise) by using substantially soundproof recording studios.

The examiner further cites Chu et al (US Pat. 6,086,380) which evidences this assertion (Fig. 1, and column 2, lines 39-48).

68. As to claim 29, Hohenacker and Williams do not disclose said audio and video recorder enables said studio user to transmit only one recording from at least two performances recorded by said studio user in said studio.

However, allowing a user to make multiple recordings and uploading only one of those recording to a remote site would have been an obvious modification to one of ordinary skill in the art given the teachings of Hohenacker. Specifically, it is a common practice in the art to review, and if necessary rerecord poor performances, and only utilize one of the recordings. Therefore, Official Notice (see MPEP 2144.03) is taken that practice was well known in the art and is implemented in order allow the user to make errors and correct those errors.

69. Claims 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker in view of Chu, as applied to claim 38, in view of what is well known in the art.

70. As to claims 41 and 42, Hohenacker and Chu do not disclose said studio user or a talent seeker pays a subscription to provide said demographic information.

However, charging a subscription fee for desired data that has been acquired is a common practice in the art. Therefore, Official Notice (see MPEP 2144.03) is taken that it would have been an obvious modification to one of ordinary skill in the art at the time of the invention to charge subscription fees to users wishing to access the data acquired by the remote studios.

71. Claims 48 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohenacker in view of Chu as applied to claim 38, in view of Chacker (US Pat. 6,578,008).

72. As to claim 48, Hohenacker and Chu do not disclose a menu on said studio site lists subject matter and pre-determined main categories and sub-categories.

However, Chacker discloses a menu on a studio site lists subject matter and pre-determined main categories and sub-categories (column 10, lines 30-35).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, and Chacker in order to create a user friendly interface by making the recorded performances more accessible.

73. As to claim 50, Hohenacker and Chu do not disclose said site further comprises a ratings means for enabling a viewer to rate said recorded performance wherein further said ratings means prohibits said viewer from rating said recorded performance more than once.

However, Chacker discloses a ratings means for enabling a viewer to rate a recorded performance and preventing said viewer from compromising the ratings (column 7, lines 19-25, viewers trade stocks, effectively rating artists; viewers are giving a finite amount of resources to trade with).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Hohenacker, Chu, and Chacker in order to allow direct user input which can then translate into popularity and marketing potential of prospective artists.

Conclusion

74. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

75. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed

within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

76. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Dailey whose telephone number is 571-270-1246. The examiner can normally be reached on Monday thru Friday; 9:00am - 5:00pm.

77. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

78. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. J. D./
Examiner, Art Unit 2452

/Kenny S Lin/

Primary Examiner, Art Unit 2452